

CROWLEY FLECK PLLP
ATTORNEYS

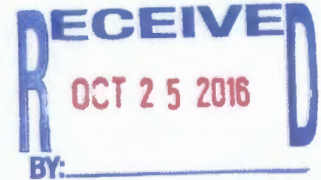
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October 19, 2016

Via Certified Mail, Return Receipt Requested

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

Regional Freedom of Information Officer
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129



Re: Freedom of Information Act Request

Dear FOIA Officers,

Pursuant to 5 U.S.C. § 552, the Freedom of Information Act ("FOIA"), and on behalf of UDAP Industries, Inc. ("UDAP"), I hereby request access to records relating to EPA's regulation of bear deterrent pepper spray, as set forth in more detail below. It is anticipated that records related to this request may be located at EPA headquarters in Washington, D.C. and/or Arlington, Virginia, as well as at EPA's Region 8 office in Denver, Colorado, which is why this request has been addressed to both national and regional FOIA Officers. It is also anticipated that such records will be maintained by the EPA Pesticides Program, including but not limited to the Registration Division and the Biopesticides & Pollution Prevention Division (Biochemical Pesticides Branch). Agency contacts with whom UDAP has previously conferred, and who may have knowledge of the location of the requested documents, include Mark Hartman, Acting Deputy Director of the Biopesticides & Pollution Prevention Division, Linda A. Hollis, Chief of the Biochemical Pesticides Branch, and Daniel B. Peacock, Biologist for the former Insecticide-Rodenticide Branch of the Registration Division. Acting Deputy Director Hartman and Branch Chief Hollis are copied on this communication via email.

On behalf of UDAP, I respectfully request that you provide the following information in EPA's possession, custody, or control:¹

- Current EPA manuals, guidance, policies, and documents concerning the standards, requirements, and process for registration of bear deterrent pepper spray, including any efficacy or product performance requirements imposed by EPA (*e.g.*, net weight/canister size, percentage of capsaicin and related capsaicinoids, spray pattern, spray duration, spray distance, etc.);
- All documents and correspondence with or concerning the Interagency Grizzly Bear Committee ("IGBC"), or any member agency of the IGBC,² concerning bear deterrent pepper spray and/or the regulation thereof;
- All documents and correspondence, from 2000 to present, regarding the labeling and advertising of Bushwacker Backpack & Supply Co., d/b/a Counter Assault (hereinafter, "Counter Assault"), with specific reference to Counter Assault's "Comparison Chart of Bear Pepper Spray." For reference, please see current iteration of the Counter Assault comparison chart here: <http://counterassault.com/specs.htm>. Please specifically include all documents and correspondence relating to any EPA finding that Counter Assault's advertising, labeling, or website presents information in a manner that is false and/or misleading;
- All documents and correspondence, from 2000 to present, with or concerning UDAP, or any other EPA-registered or sub-registered bear spray company, that relates to or references Counter Assault's comparison chart, website, labeling, or advertising;
- All documents and correspondence from 2000 to present concerning any change or modification EPA has ordered or requested Counter Assault make to its comparison chart, website, labeling, and/or advertising;

¹ Please interpret the requests herein made to encompass all non-exempt EPA correspondence with third-parties (*i.e.*, external correspondence), and all non-exempt internal EPA correspondence, memoranda, reports, manuals, policies, guidance, etc., concerning the topic to which the request is made.

² According to the IGBC's website, "IGBC membership currently includes U.S.D.A Forest Service, U.S.D.I. Fish and Wildlife Service, U.S.D.A. [sic] Bureau of Land Management, U.S.D.I. National Park Service, the state wildlife agencies of Montana, Idaho, Wyoming and Washington, the British Columbia Wildlife Branch, the Alberta Wildlife Branch, and Parks Canada." See IGBC FAQs, available at, <http://igbconline.org/about-us/igbc-faqs> (last visited Oct. 17, 2016).

- All documents, correspondence, and analysis related to or concerning UDAP's letter to Acting Deputy Mark Hartman, dated March 28, 2016; and
- EPA documents and correspondence from 1995 to present with or concerning Chuck Bartlebaugh, Center for Wildlife Information, or the Be Bear Aware Campaign.

If possible, UDAP requests that the information requested be provided in digital format that can be emailed as attachments or sent via data storage devices, such as a USB stick or disk. Please supply the records without informing me of the cost if the estimated fees do not exceed \$1,500.00, which I agree to pay. If you estimate the fees will exceed this limit, please notify me prior to filling my request. I am making this information request on behalf of a commercial requester.

If you deny any part of this request, please cite each specific reason that you think justifies your refusal to release the information. Please notify me of appeal procedures available under the law.

If you have any questions processing this request, please do not hesitate to contact me using the information contained in the letterhead, above.

Sincerely,
CROWLEY FLECK PLLP



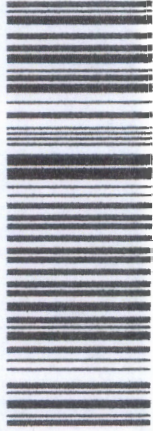
Gregory F. Dorrington

cc: **Mark Hartman**, Acting Deputy Director of the Biopesticides & Pollution Prevention Division, via email only (hartman.mark@epa.gov)

Linda Hollis, Chief of the Biochemical Pesticides Branch, Biopesticides & Pollution Prevention Division, via email only (hollis.linda@epa.gov)

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